

DEC 23 1994

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates that your organization was incorporated in [REDACTED] on [REDACTED]. Your purposes as stated in your Articles of Incorporation are:

- (1) To own or lease and maintain one or more aircraft for the education, transportation, and general use of the members of the Corporation or their families or such individuals as the Board of Directors may designate pursuant to any by-laws which may hereafter be adopted.
- (2) To acquire, own, hold, sell, lease, pledge, mortgage, or otherwise dispose of any property, real or personal, necessary to the operation of the Corporation.
- (3) To borrow money, contract debts, make contracts, and to exercise any and all other powers as a natural person could lawfully make, do perform, or exercise which may be necessary, convenient, or expedient for the accomplishment of any of its objects or purposes, providing the same be not inconsistent with the laws of the State of [REDACTED] and to that end, enumeration of such powers shall not be deemed inclusive.
- (4) To do anything permitted by the Corporations and Associations Article (Section [REDACTED]) of the [REDACTED] Code as amended from time to time.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	12-7-94	12-8-94	m/23/94				

[REDACTED]

You are a membership organization with [REDACTED] members. Each member owns [REDACTED]th of the [REDACTED] aircraft built in [REDACTED].

Your income is from gross dues and assessments against members. Members pay an hourly fee to use the airplane, currently \$[REDACTED] based on the actual cost of maintaining the aircraft, and share equally the cost for insurance and hanger rent. Your expenses are for those attributable to activities related to the organization's purposes, hanger rent, and depreciation.

All repairs to the aircraft are done by a FAA licensed repair station, and members that assist in specified pilot performed maintenance do so on their own time.

In your letter dated [REDACTED], you confirmed the only presently scheduled meetings are:

- (1) August 1 (or next business day) for annual business meeting lasting 2-3 hours.
- (2) Saturday in May for 4-6 hours to perform aircraft and hanger cleanup and minor aircraft maintenance.
- (3) Saturday in October for 4-6 hours to perform aircraft and hanger cleanup and minor aircraft maintenance.

You indicated you have recently planned to meet on [REDACTED] for a holiday party with other local pilots. You also indicated there are other meetings and trips by members as a group; they are not formally scheduled but come by way of telephone to plan a next day trip to some airport for lunch or a day trip experience. You also indicated they generally occur once per month, more often in summer less often in winter. Your scheduling calendar for January 1 through November 30, 1994 indicated only one shared trip by [REDACTED] of your members, on [REDACTED].

You also indicated you have not and are not planning to sponsor any activities either for members or the general public.

You indicated non-members may be passengers upon an invitation by the pilot-in-command. And, while there is no fee charged, they may share an equal portion of the cost to make a particular flight, as to be determined by the participants.

Section 501 (c) (7) of the Internal Revenue Code provides for exemption for clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes, and no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1 of the Income Tax Regulations provides that, in general, this exemption extends to social and recreational clubs which are supported solely by membership fees and assessments. A club which engages in business, such as making its social and recreational facilities available to the general public or selling products and merchandise is not organized and operated exclusively for pleasure and recreational purposes.

Section 1.501(c)(7) of the Income Tax Regulations provides as follows:

- a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenues from members through the use of club facilities or in connection with club activities.
- b) A club which engages in business, such as making its social and recreational facilities available to the general public - is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club, exempt from taxation and described in section 501(c)(7), is permitted to receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmember use of its facilities or services, so long as the latter does not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Procedure 71-17, published in Cumulative Bulletin 1971-1, page 683, establishes recordkeeping requirements for social clubs, to separate nonmember income. If these requirements are not met, certain presumptions as to member vs. nonmember income may be made, as outlined in the Revenue Procedure.

Revenue Ruling 70-32 published in Cumulative Bulletin 1970-1, page 132, holds that a flying club providing economical flying facilities for its members but having no organized social and recreation program does not qualify for exemption under section 501(c)(7) of the Code.

Revenue Ruling 69-635 published in Cumulative Bulletin 1969-2, page 126, holds that an automobile club whose principal activity is rendering automobile services to its members but has no significant social activities does not qualify for exemption under section 501(c)(7) of the Code.

There is no statutory definition of "club" as used in section 501(c)(7) of the Code. However, Revenue Ruling 58-589 published in Cumulative Bulletin 1958-2, Page 266, sets forth the criteria for exemption under section 501(c)(7) of the Code and provides that a club must have a membership of individuals, personal contacts, and fellowship. A commingling of members must play a material part in the activities of the organization.

Generally, the lack of commingling of members is an indication that the basic purpose of an organization is only to provide personal services and/or goods to the membership in a manner that is similar to a commercial counterpart.

Our review of the information submitted in your application and subsequent information provided, indicates that you do not meet the criteria to be exempt under this section. Like the organizations described in the above Revenue Rulings, you have not demonstrated that regular social contact and fellowship constitutes a material part of your organization's activities.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(7) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax authorization with us.

[REDACTED]

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED]
District Director

Enclosure: Publication 892